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INTERPRETIVE BULLETIN

Implementation of Chapter 43 of the Acts of 1994:
Requirements Relating to Political Action Committees

The Office of Campaign and Political Finance (OCPF) periodically issues interpretive bulletins regarding various aspects of M.G.L. c. 55, the Massachusetts campaign finance law. This bulletin is issued to provide guidance and direction to political committees and interested persons regarding the interpretation and implementation of certain provisions of the law relating to political action committees ("PACs") and related entities.

I. Background.

Section 1 of M.G.L. c. 55 defines a "political action committee" as:

a political committee which is not a candidate's committee, a political party committee nor a ballot question committee; provided, however, that a political committee which does not receive contributions from any individual that exceed one hundred dollars in any calendar year, which has been in existence for six months or more and which contributes to five or more candidates shall not be a political action committee; provided, further, that said one hundred dollar amount shall be indexed biennially for inflation by the director. . .

The definition of "political action committee" in section 1 distinguishes between PACs and certain other political committees, which, although similar to PACs, are limited in the amount that they may receive from individual contributors. This type of political committee, termed a people's committee, is not subject to certain requirements that have been imposed on PACs.

People's committees, unlike PACs, are limited to an annual aggregate receipt of \$132¹ per individual. Contributions may only be received from individuals, and may not be received from entities such as associations or other political committees. In addition, to become a people's

¹ This amount is indexed biennially, and will next be adjusted by December 31, 2005. See M-97-05.

committee, a committee must be organized and in existence for at least six months as a political action committee and must have contributed to at least five candidates during its existence as a political action committee. If a political committee, which is not a candidate committee, political party committee, or a ballot question committee, does not comply with each of these three requirements, it by definition remains a PAC.

II. Obligations of PACs and people's committees.

A. Disclosure.

1. Committee name: full name must be used.

Section 5 of chapter 55 requires a PAC or people's committee to include in its Statement of Organization filed with OCPF² "the full words represented by any abbreviations, initials or acronyms in [the committee's] name; and . . . if a political action committee shall include the words 'Political Action Committee' in said name." Both PACs and people's committees must reflect the purpose for which the committee was organized on the Statement of Organization. Therefore, a people's committee must disclose, on its Statement of Organization, its status as a people's committee since that status is an element of the committee's "purpose." A people's committee cannot use "PAC" or "political action committee" in its name.

2. Committee name: disclosure of economic or special interests of contributors.

Section 5B of c. 55 requires a PAC or people's committee to use a name which clearly identifies "the economic or other special interest . . . of a majority of its contributors." If a majority of contributors share a common employer, the name must identify the employer. If the contributors' special interest or employer is not identifiable, the name must identify the economic or special interest of the organizers; if a majority of organizers share a common employer, the name must identify the employer. If the committee is organized, financed, controlled or maintained by an individual, the committee's name must include the name of the individual.

3. Issues in which committee takes interest.

Section 5 of c. 55 requires a PAC or people's committee to include, in its Statement of Organization, the "specific issues in which the committee takes an interest, and a list of specific interests, including but not limited to business, charitable, educational, or other interests represented by the committee, or by a significant proportion of its officers, members or donors."

4. Use of multiple names prohibited.

In addition, section 5B of c. 55 prohibits PACs and people's committees from using any name other than the name included in the committee's Statement of Organization.

² PACs and people's committees file reports with OCPF, with the exception of PACs and people's committees organized solely to influence the election of candidates in a particular city or town. These committees file statements and reports with the appropriate city or town clerk or board of election commissioners, rather than with OCPF.

5. Reporting employer of contributors.

Section 18 of c. 55 specifies that reports filed by PACs must reflect the occupation and name of employer or employers for each person whose contribution or contributions in the aggregate equal or exceed \$200 in any calendar year.

People's committees cannot accept more than \$132 in any calendar year from any individual and maintain their status as people's committees. Therefore, the occupation/employer provision does not apply to people's committees. If a people's committee accepts more than \$132 in any calendar year from any individual or accepts any contribution, including an in-kind contribution, from any entity, the committee, by definition, becomes a PAC, subject to all the requirements placed on PACs.

6. Penalties for late filing of reports.

Section 3 of c. 55 mandates that OCPF assess a civil penalty for any report, statement, or affidavit that is filed late. The amount of the penalty is set at \$10 per day, up to a maximum of \$2,500 for any late filed report, statement, or affidavit. In the case of a PAC or people's committee, the penalty is assessed against the committee treasurer who is personally responsible for payment.

B. Limits on contributions which may be made and received.

1. Limits on contributions from PACs and people's committees to other political committees.

Both PACs and people's committees, when making contributions to a candidate, a candidate's committee, or any other political committee, are subject to section 6, which limits such contributions. Section 6 states that PACs and people's committees may not contribute to people's committees and may contribute only up to \$500 annually to a candidate, a candidate's committee, or any other political committee, with the exception of a political party committee, as described below.

2. Limits on contributions from PACs and people's committees to party committees.

The maximum annual total on contributions from PACs and people's committees to political party committees is 5,000. For example, a PAC or people's committee cannot contribute \$4,000 to a state party committee and \$2,000 to a city, town or ward party committee, since the total aggregate contribution to political party committees would then be greater than \$5,000.

3. Limits on aggregate contributions from PACs to candidates.

Section 6A imposes restrictions on the aggregate amount of PAC contributions to candidate committees. No aggregate limits are placed on contributions made by people's committees. Section 6A limits what candidates can receive from PACs based on the office sought by the candidate. For example, a gubernatorial candidate can receive only up to \$150,000 annually from PACs; a candidate for state representative can receive only up to \$7,500 per year. Aggregate limits do not apply to contributions to candidates for municipal office.

4. Limits on contributions from individuals to PACs.

Section 7A limits the individual annual contributions that may be received by PACs to \$500 per individual. Section 7A also limits the amount which may be given by legislative and executive agents, also known as lobbyists, to PACs to \$200 per agent per year. By definition, contributions to people's committees from agents, like any other individual, are restricted to \$132 per agent per year, subject to indexing.

C. Limits on who may establish, finance, maintain, control or serve as an officer of a PAC.

Section 5A states that "no candidate or individual holding elective public office" can "establish, finance, maintain, control or serve as a principal officer" of a PAC, with one exception. A majority of each party's legislators in both the house of representatives and senate can authorize PACs to be established, or otherwise controlled, by a candidate or elected officer.

Other than this exception, no candidate (including a candidate for municipal or county office) can establish, finance, maintain, control or serve as a principal officer of a PAC. For example, a candidate for elected town planning board, or an incumbent board member, may not control a PAC.

Section 5A applies only to PACs. It does not prohibit such candidates or elected officers from establishing, financing, maintaining, controlling, or serving as principal officers of people's committees.

D. Obligations of a PAC which is an intermediary or conduit for contributions to a candidate.

Section 10A provides that contributions passed through (i.e., "bundled by") an intermediary that is a PAC, or an officer, employee or other agent of the PAC, will also be considered to be contributions from the intermediary. The PAC is obligated to report the original source of the contribution to OCPF and to the candidate's committee which ultimately receives the contribution. Section 10A of c. 55 does not apply to contributions made through a people's committee or its agents or to a PAC if all contributions are \$132 or less.

Since contributions "bundled by" a PAC, or by an officer, employee or agent of the PAC, are also treated as contributions from the PAC, such contributions will count toward the aggregate contribution limit allowed the PAC. They also will count toward the aggregate contribution limit of the original source of the contribution.

E. Registration of new committees

Any group of persons which intends to receive contributions or make expenditures for the purpose of influencing the nomination or election of more than one candidate, and which has not previously filed a Statement of Organization with OCPF, must file a Statement of Organization as a PAC. This statement must be filed before the PAC becomes involved in any campaign finance activity.

A new political committee which intends to become a people's committee must temporarily register as a PAC. Thereafter, such a political committee may become a people's committee provided that it (1) has been in existence for at least six months, (2) has contributed to five or more



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candidates and (3) has only received contributions from individuals and that such contributions are limited to \$132 per individual during a calendar year. In addition, the treasurer of the political committee must affirm, on a Declaration of Status, that the political committee will continue to accept only contributions from individuals and that it will limit the amount received from any individual to \$132 per calendar year.

1. Affiliated political committees.

A PAC may organize an "affiliated" people's committee which must be temporarily registered as a PAC. For example: the persons controlling an existing PAC may also register a new committee, which, if the committee complies with the conditions specified in section III E above, may become a people's committee. Both political committees must, however, maintain different names and separate bank accounts.

The new committee, both while it is temporarily registered as a PAC and after it becomes a people's committee, must pay for all services which it receives from a PAC, an association or any other entity, since otherwise the new committee would be receiving an in-kind contribution from an entity and not an individual, thus jeopardizing its status as a people's committee.

In addition, any two political committees, including a PAC and a people's committee, will be considered "affiliated" committees for purposes of determining the limitations on their contributions, if they are "established, financed, maintained or controlled by any person, including any parent committee of a subsidiary committee. . ." See M.G.L. c. 55, § 6 and 970 CMR 1.06. For example: if a PAC contributes \$400 to a candidate, and the affiliated people's committee contributes \$200 to the same candidate, the \$500 limit on contributions from political committees not organized on behalf of a candidate to a candidate's committees would be violated.

2. Statement of Organization.

The Statement of Organization must comply with sections 5 and 5B of c. 55 and all other provisions of c. 55. For example, a political action committee must include the phrase "political action committee" in the committee's name. In addition, to the extent the committee is financed, maintained, controlled or has as a principal officer, a candidate or elected public officer, such person must relinquish control or be replaced by another officer, in order to comply with section 5A except as previously noted in section II C.

Finally, the name of each political action committee or people's committee must include a description of the committee's economic interests and the name of a common employer as noted in section II A (2).

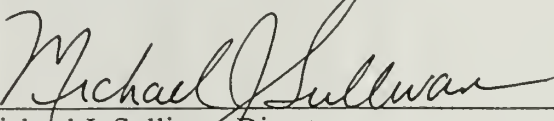
F. People's committee failure to meet requirements.

A people's committee may decide to become a PAC at any time but must immediately file a Declaration of Status with OCPF to reflect the committee's new name (which must include the words "political action committee") and status. In addition, if a people's committee fails to limit all contributions from individuals to \$132 or less in a calendar year or accepts any contribution, including an in-kind contribution, from a political committee, association or any other entity, the committee must immediately file an amended Statement of Organization as a PAC. Once a people's committee has failed to comply with the contribution limitations applicable to people's committees,



or declared itself to be a PAC, it will not be able to once again become a people's committee.

If you have questions regarding this interpretative bulletin or any other campaign finance matter please do not hesitate to contact OCPF at (800) 462-OCPF or (617) 727-8352. You may also refer to the office's web site at www.mass.gov/ocpf.



Michael J. Sullivan, Director





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See next page for explanatory notes

ALL LIMITS ARE FOR A CALENDAR YEAR

NOTES

- ¹ **PACs:** PACs must be organized with OCPF under M.G.L. Chapter 55 before they may contribute to Massachusetts candidates or committees.
- ² **People's Committee:** After six months in existence, a PAC that has received contributions from individuals of \$123 or less per year and contributed to five or more candidates may request a change in its status to that of a people's committee. The maximum contribution from and individual to a people's committee is adjusted biennially by OCPF. The \$132 figure is in effect for 2004 and 2005.
- ³ **Contributions by Individuals:** The maximum aggregate contribution to all state, county and local candidates by an individual may not exceed \$12,500 per year. Individuals under 18 years of age have an aggregate contribution limit of \$25 per year. There is no limit on how much a candidate may contribute to his or her own campaign, though the maximum amount that certain candidates may loan varies by the office sought. Contact OCPF for limits on loans from candidates to their own campaigns.
- ⁴ **Contributions to Party Committees:** The maximum annual aggregate contribution that may be made by an individual, lobbyist, PAC, people's committee or party committee to all committees of any one party, including those on the state and local level, is \$5,000.
- ⁵ **Lobbyists** ("executive agents" or "legislative agents") are also subject to the \$12,500 limit on aggregate annual contributions placed on individual contributors.
- ⁶ **Statewide candidates** include those running for or holding the office of governor, lieutenant governor, attorney general, treasurer/receiver general, auditor and secretary of the commonwealth.
- ⁷ **Contributions to Party Committees:** The maximum annual aggregate contribution a statewide candidate committee may make to all party committees (state and local) is \$1,500.
- ⁸ **Contributions from a non-statewide candidate's committee to all candidate committees** are limited to an aggregate of \$1,500 annually. Contributions from a candidate's personal funds are subject to the \$500 individual limit, not the \$100 committee limit.
- ⁹ **Contributions from a non-statewide candidate committee to a PAC, party committee or ballot question committee** are not limited but may be made only for "the enhancement of the political future of the candidate."
- ¹⁰ **Contributions from a PAC, people's committee or party committee to a ballot question committee** are not subject to limitation but must be consistent with the principle for which the contributing committee was organized.
- ¹¹ **Party contributions to candidates:** These limits apply to monetary contributions only. There is no limit on in-kind contributions by party committees to candidates.
- ¹² **A local party committee may contribute** up to an aggregate of \$5,000 in a calendar year to all ward, town, city and state committees of the same political party.
- ¹³ **Contributions among ballot question committees:** A ballot question committee may contribute to another ballot question committee without limitation, provided such contributions are "consistent with the purpose for which [the contributing committee] was organized."

For further information contact:

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